



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, सोमवार, २ दिसम्बर, १९९६/११ अग्रहायण, १९१८

हिमाचल प्रदेश सरकार

विधान सभा सचिवालय

अधिसूचना

शिमला-१७१००४, २ दिसम्बर, १९९६

संख्या १-५९/९६-वि० स०.—हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, १९७३ के नियम १३५ के अन्तर्गत हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का (संशोधन)

विधेयक, 1996 (1996 का विधेयक संख्यांक 28) जो दिनांक 2 दिसम्बर, 1996 को हिमाचल प्रदेश विधान सभा में पुरःस्थापित हो चुका है, सर्वसाधारण की सूचनार्थ असाधारण राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है ।

हस्ताक्षर/-
सचिव

1996 का विधेयक संख्यांक - 28.

**हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का (संशोधन)
विधेयक, 1996**

(विधान सभा में यथा पुरःस्थापित रूप में)

हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का अधिनियम, 1955 (1955 का 15) का और संशोधन करने के लिए विधेयक ।

भारत गणराज्य के सैतालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

1. (1) इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का (संशोधन) अधिनियम, 1996 है । संक्षिप्त नाम और प्रारम्भ ।

(2) यह प्रथम अक्टूबर, 1996 को प्रवृत्त हुआ समझा जाएगा और सदैव प्रवृत्त हुआ समझा जाएगा ।

2. हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का अधिनियम, 1955 (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 2 में,— धारा 2 का संशोधन ।

(क) खण्ड (d) के पश्चात् निम्नलिखित खण्ड जोड़ा जाएगा, अर्थात् :—

“(da) “kilogram” means kilogram as defined in the Standards of Weights and Measures Act, 1976 ; ” ;

(ख) विद्यमान खण्ड (dd) को खण्ड (db) के रूप में पुनः संख्यांकित किया जाएगा ; और

(ग) विद्यमान खण्ड (h) और खण्ड (j) को खण्ड (j) और खण्ड (l) के रूप में पुनः संख्यांकित किया जाएगा और इस प्रकार पुनः संख्यांकित खण्ड (j) से पूर्व निम्नलिखित खण्ड (h) और खण्ड (i) अन्तः स्थापित किए जाएंगे, तथा पुनः संख्यांकित खण्ड (l) से पूर्व खण्ड (k) अन्तः स्थापित किया जाएगा, अर्थात् :—

“(h) “prescribed authority” means any officer of the Excise and Taxation Department, not below the rank of an Excise and Taxation Inspector, appointed under sub-section (1) of section 7 of this Act;

(i) “Schedule” means the Schedule appended to this Act;

(k) “tax” means the tax levied under sections 3 and 3-B of the Act ; and.”

धारा 3 का संशोधन। 3. मूल अधिनियम की धारा 3 की उप-धारा (1) के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात् :—

“(1) There shall be levied, charged and paid to the State Government a tax—

- (i) on all fares in respect of all passengers carried by motor vehicles at such rates not exceeding fifty per cent of the value of fares, and
- (ii) on all freights in respect of all goods transported by motor vehicles at such rates not exceeding five per cent of the value of freight.

as the Government may, by notification, direct, subject to a minimum of five paise in any one case, the amount of tax being calculated to the nearest multiple of five paise by ignoring two paise or less and counting more than two paise as five paise.

Explanation.—When passengers are carried and goods are transported by a motor vehicle, and no fare or freight whether chargeable or not has been charged, the tax shall be levied and paid as if such passengers were carried or goods transported at the normal rate prevalent on the route.”

धारा 3-A का अन्तःस्थापन। 4. मूल अधिनियम की धारा 3-A के पश्चात्, निम्नलिखित धारा 3-B, अन्तःस्थापित की जाएगी, अर्थात् :—

“3-B. *Levy of additional goods tax.*—(1) In addition to the tax levied under section 3, on and from the commencement of the Himachal Pradesh Passengers and Goods Taxation (Amendment) Act, 1996, there shall be levied, charged and paid to the State Government, an additional tax on the transport of the goods specified in column (2) of the Schedule at the rates given in column (3) thereof for every slab of one hundred and fifty kilometers or part thereof covered/being covered by road within the State.

(2) The tax under sub-section (1) shall be paid by a person-in-charge or the driver of the motor vehicle, as the case may be, in the prescribed manner, into the Government Treasury or the State Bank of India or to the prescribed authority of the district through which the transport of goods is affected subject to the condition that such authority shall issue him a receipt, in the prescribed form, in token of having received the amount specified therein.”

धारा 4 का संशोधन। 5. मूल अधिनियम की धारा 4 में, विद्यमान परन्तुकों के स्थान पर निम्नलिखित परन्तुक रखा जाएगा, अर्थात् :—

“Provided that in the case of goods carriages or motor cabs, maxi cabs and scooter rickshaws, wherever an owner opts to pay the tax or tax and surcharge in lump-sum, the Government

may accept a lump-sum in lieu of the tax or tax and surcharge, as the case may be, payable under sections 3 and 3-A, on freight or fare in the manner prescribed :

Provided further that in case of motor vehicles (including the stage carriages or contract carriages), other than those specified in the first proviso, in which the passengers are carried, wherever an owner opts to pay the tax and surcharge in lump-sum, the State Government may accept a lump-sum, in lieu of the tax and surcharge payable under sections 3 and 3-A, in the manner prescribed, taking into consideration the registered capacity of the vehicle and the distance to be covered by such motor vehicles under the permit issued to such vehicles."

6. मूल अधिनियम की धारा 10 में, "any of the provisions" शब्दों के पश्चात्, "other than the provisions of section 3-B," शब्द, अंक और अक्षर जोड़े जाएंगे । धारा 10 का संशोधन ।

7. मूल अधिनियम की धारा 14-B के स्थान पर, निम्नलिखित धाराएं 14-B, 14-C और 14-D रखी जाएंगी, अर्थात् :-- धारा 14-B का प्रतिस्थापन ।

"14-B. *Establishment of check posts or barriers and inspection of goods in transit.* - (1) With a view to preventing or checking evasion of tax under this Act, the State Government may, by notification, direct the establishment of a check post or the erection of a barrier or both on such road or roads as may be notified.

(2) At every check post or barrier or at any other place when so required by an officer-in-charge of the check post or barrier or any other officer, not below the rank of an Excise and Taxation Inspector, the person-in-charge or the driver of the motor vehicle, as the case may be, shall stop or cause to be stopped the motor vehicle, and keep it stationary as long as may reasonable be necessary, and allow the aforesaid officer to examine the contents in the motor vehicle by breaking open the package or packages, if necessary, and inspect all records relating to the goods transported which are in the possession of such person-in-charge or driver, who shall also furnish such other information as may be required by the aforesaid officer, and if considered necessary, such officer may also search the goods and the motor vehicle.

(3) The person-in-charge or the driver of the motor vehicle, as the case may be, shall keep with him the receipt in the prescribed form showing the tax and/or additional goods tax paid by him under sections 3 and 3-B in respect of the goods being transported by him and produce on demand such receipt before an officer-in-charge of a check post or barrier or any other officer, not below the rank of an Excise and Taxation Inspector, checking such motor vehicle at any other place.

(4) If the person-in-charge or the driver of motor vehicle, as the case may be, fails to produce the receipt as required under sub-section (3), the officer-in-charge of the check post or barrier or

any other officer referred to in sub-section (3), as the case may be, shall recover the tax and/or the additional goods tax, as the case may be, at the check post or barrier or at the place of inspection and issue him the receipt in the prescribed form.

(5) If the transport of the goods on which the tax and/or additional goods tax is payable under this Act, is being affected through the check post or the barrier falling first in the course of transit within the State, the person-in-charge or the driver of motor vehicle may pay the tax at such check post or the barrier and obtain a receipt, in the prescribed form, against such payment.

14-C. Penalties. (1) Whosoever,

- (a) contravenes or abets the contravention of any of the provisions of this Act or the rules made thereunder or any order or direction made under any such provision or rule; or
- (b) conceals the particulars of the transport of the goods or deliberately furnishes inaccurate particulars,

shall, on conviction, be liable to imprisonment of either description which may extend to six months or a fine which may extend to one thousand rupees or both.

(2) No Magistrate shall take cognizance of any offence under this Act or the rules made thereunder except on a complaint in writing made by an officer or authority authorised by the Commissioner, in this behalf.

14-D. *Composition of offences.*—(1) The State Government may, by notification in the Official Gazette, authorise any officer, not below the rank of an Excise and Taxation Officer to compound the offences committed under this Act and rules made thereunder.

(2) The officer authorised under sub-section (1), may compound the offence committed under this Act by charging either a sum of rupees one thousand or double the amount of tax, surcharge, or additional goods tax, whichever is higher.

(3) On payment of the sum referred to in sub-section (2), no further criminal proceedings shall be taken or continued to be taken against the person concerned in respect of such offence."

धारा 21-A 8. मूल अधिनियम की धारा 21 के पश्चात्, निम्नलिखित धारा 21-A अन्तःस्थापित की जाएगी, अर्थात् :—
स्थापन।

"21-A. *Power to amend Schedule.*—(1) The State Government may, subject to previous publication, by notification add to or delete therefrom any goods specified in column (2) of the Schedule or amend the rate of additional goods tax specified in column (3) thereof and thereupon the said Schedule shall stand amended accordingly :

Provided that the rate of the additional goods tax shall not be increased at any one time by more than 50% of the rate specified in the Schedule.

(2) Every notification issued under sub-section (1) shall, as soon as may be, after it is issued, be laid on the Table of the Legislative Assembly.”.

9. मूल अधिनियम की धारा 22 को उप-धारा (2) में,—

धारा 22
का संशोधन।

(क) प्रथम परन्तुक से पूर्व, निम्नलिखित परन्तुक अन्तःस्थापित किया जाएगा, अर्थात् :—

“Provided that the State Government may, for the purposes of section 3-B of this Act, make rules with retrospective effect so as to be effective from any day on or after 1st day of October, 1996 :”; और

(ख) विद्यमान परन्तुक में “Provided” शब्द के स्थान पर “Provided further” शब्द रखे जाएंगे।

10. मूल अधिनियम के अन्त में, निम्नलिखित अनुसूची जोड़ी जाएगी, अर्थात् :—

अनुसूची
जोड़ना।

“SCHEDULE

[See sub-section (1) of section 3-B and section 21-A]

Sl. No.	Particulars of the goods on the transport of which additional goods tax is leviable	Rate of additional tax for transport of goods for every slab of 150 kilometers or part thereof
1	2	3
1.	All types of yarn (excluding woollen yarn).	Re. 1.00 per 10 kg. or part thereof.
2.	All type of conductors and aluminium wire rods.	Re. 1.00 per 10 kg. or part thereof.
3.	(a) Bajri, sand and other minerals (excluding Lime stone, Granite and Marble, Marble Chips and pieces), and	Rs. 7.00 per ton.
	(b) Lime-stone	(i) From 1-10-1996 to 31-12-96 Rs. 7.00 per ton. (ii) From 1-1-1997 Rs. 25.00 per ton.
4.	Bricks	Rs. 30.00 per thousand
5.	Brick bats	Rs. 15.00 per ton
6.	Carpets of all types	Rs. 10.00 per 10 kg. or part thereof.
7.	Cement and Clinker	Rs. 60.00 per ton
8.	Forest produce :	
	(a) Timber, (Sawn, Hawkries, Dim-dimas, Logs, Ballies and Rough Axed of all sizes).	Rs. 45.00 per cum

1	2	3
	(b) Khair wood (including roots or in any other form).	Rs. 60.00 per quintal
	(c) Fuel wood and chil pulp wood	Rs. 10.00 per quintal
	(d) Other Forest Produce :	
	(i) Bhabar grass	Rs. 5.00 per quintal
	(ii) Bamboo, Barberies, Emblica officianale (Amla fruit) and resin.	Rs. 2.00 per 10 kg. or part thereof.
	(iii) Dioscorea, Saussurea lappa (Kuth), Reetha, Terminalia Chebula (Hara fruit) and Terminalia belerica (Behera fruit).	Rs. 4.00 per 10 kg. or part thereof.
	(iv) Centiana Karru (Kaur), Jurinea Macrorephila (Dhoop) and Picrothiza Karrosa (Kaur, Karu).	Rs. 5.00 per 10 kg. or part thereof.
	(v) Juglansregia (Akhrot bark and fruit), Violserpens Violaodorata (Banafsha), Chilgoza and Seeds of all forest species like Deodar, Kail, Chil and broad leaved species.	Rs. 10.00 per 10 kg. or part thereof.
	(vi) Carum Carvi (Kala-zeera) and Katha.	Rs. 30.00 per 10 kg. or part thereof.
	(vii) Rauwelfia serpentina (Rauwolfia).	Rs. 75.00 per 10 kg. or part thereof.
	(viii) Merchella esculenta (Guchhie)	Rs. 30.00 per 10 kg. or part thereof.
9.	Fruits (excluding dry fruits not otherwise specified).	50 paise per 10 kg. or part thereof.
10.	(a) Granite and Marble including Marble Chips and pieces.	75 paise per 10 kg. or part thereof.
	(b) Lime stone-chips	7 paise per 10 kg. or part thereof.
11.	Prepared explosives, safety fuses, detonating fuses, detonating caps, detonators and propellant powder.	Rs. 5.00 per 10 kg. or part thereof.
12.	Vegetables including potatoes	25 paise per 10 kg. or part thereof.

Explanation. --“For the purposes of this Schedule, —(a) ‘Timber’ means all wood whether cut up or fashioned or hollowed out for any purpose or not but excluding fuel wood, and

(b) ‘Conductor’ means any wire used in transmission of electric energy or any other form of power.”

11. (1) हिमाचल प्रदेश में यात्रियां तथा सामान पर कर लगाने का (संशोधन) अध्यादेश, 1996 एतद्वारा निरमित किया जाता है।

1996 के
अध्यादेश
संख्यांक 3
का निरमित
और व्या-
वृत्तियां।

(2) ऐसे निरमित के होते हुए भी, निरमित अध्यादेश के अधीन की गई कोई बात या कार्रवाई, इस अधिनियम के तत्स्थाना उपबन्धों के अधीन की गई समझी जाएगी, मानों इस अधिनियम के उपबन्ध उस समय प्रवृत्त थे तथा ऐसी बात या कार्रवाई की गई थी।

उद्देश्यों और कारणों का कथन

राज्य सरकार ने, हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का अधिनियम, 1955 की धारा 3 के अधीन भाड़े के चालीस प्रतिशत की दर से माल के वहन पर कर उद्गृहीत किया था। प्रवर्तन पर, आवश्यक माल पर, माल कर का भार, ऐसी विभिन्न वस्तुओं पर मूल्य सूची के कारण अनुज्ञात कीमत-वृद्धि की सीमा द्वारा समायोजित करना कठिन पाया गया था जिसके परिणामस्वरूप हिमाचल प्रदेश जैसे उपभोक्ता राज्य में उसकी आपूर्ति दोषपूर्ण और प्रतिकूल रूप से प्रभावित हुई; यह स्पष्टतया प्रकट हुआ कि हिमाचल प्रदेश, जो कि मुख्यतः एक उपभोक्ता राज्य है, इस स्थिति में नहीं था कि सभी माल पर माल कर के इस उच्च भार को जारी रख सके। इस प्रास्थिति में वस्तुओं की उसे बरदाश्त करने की सामर्थ्य के सन्दर्भ में माल कर की दरों का तत्काल सुव्यवस्थीकरण करना आवश्यक है।

इसके अतिरिक्त, मैसर्स नूरपुर प्राईवेट बस अप्रैटरज यूनियन एण्ड अदरज वरसिज स्टेट आफ हिमाचल प्रदेश एण्ड अदरज [1993(1) एसएलसी 294] में माननीय उच्च न्यायालय के निर्णय के दृष्टिगत कर दाताओं को, कर के एकमुश्त आधार पर अनिवार्य संदाय के बदले में, यात्री और माल कर या तो वास्तविक के आधार पर या एकमुश्त के आधार पर संदत्त करने के विकल्प का उपबन्ध करना आवश्यक समझा गया था।

हिमाचल के पहाड़ी भू-भाग में सड़कें और पुल जीवन रेखा हैं और प्रत्येक वर्ष राज्य सरकार को अपने राजस्व का काफी बड़ा भाग उनके निर्माण, विकास, मरम्मत, अनुरक्षण और रख-रखाव पर व्यय करना पड़ता है, जिसके बिना कोई विकास, औद्योगीकरण, व्यापार जिसमें ऐसी व्यापारिक सुविधाएं, यथा मूलभूत ढांचे के बारे में सोचा भी नहीं जा सकता है। इन क्रियाकलापों के निधिकरण के लिए आवश्यक राजस्व उत्पन्न करने के लिए सड़क द्वारा यात्रियों और माल के वहन के लिए कराधान अपरिहार्य बन जाता है, जिसका अर्थ यह होगा कि उसके अभाव में, राज्य में सड़कों और पुलों के निर्माण, रख-रखाव, विकास आदि पर आत्यंतिक विराम होगा और विकास, औद्योगीकरण तथा व्यापार की गति का पिछड़ कर पुनः पतन हो जाएगा। वर्ष, 1996-97 के लिए राज्य में, सड़कों और पुलों के निर्माण, विकास, मरम्मत, अनुरक्षण और रख-रखाव के क्रियाकलापों पर 1,88,70,93,000/- रुपये व्यय करने का बजट में प्रावधान है। इसके अतिरिक्त वर्ष, 1996-97 के लिए यातायात नियंत्रण आदि के क्रियाकलापों को नियमित करने पर 1,30,00,000/- रुपये का व्यय उपगत किया जा रहा है। व्यापारिक सुविधाओं की सुलभता को बनाए रखने के हित में इन व्ययों की वित्त व्यवस्था करना आवश्यक है।

उक्त तथ्यों के कारण इस स्थिति का सामना करने के लिए आधारभूत माल कर की दर को चालीस प्रतिशत से कम करके पांच प्रतिशत करने के लिए तत्काल कार्रवाई करना आवश्यक हो गया था, इसके साथ-साथ माल कर की दर को पैंतीस प्रतिशत कम करने में अन्तर्वर्तित राजस्व की पूर्ति करने के लिए, कर का अधिकांश भार बरदाश्त करने की सामर्थ्य रखने वाले चयनित माल के परिवहन पर अतिरिक्त माल कर का उद्ग्रहण करना आवश्यक हो गया, ताकि कर ढांचा सुव्यवस्थित हो।

क्योंकि हिमाचल प्रदेश विधान सभा सत्र में नहीं थी और हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का अधिनियम, 1955 में तत्काल संशोधन करना आवश्यक हो गया था, अतः हिमाचल प्रदेश के राज्यपाल द्वारा भारत के संविधान के अनुच्छेद 213 के खण्ड (1) के अधीन हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का (संशोधन) अध्यादेश, 1996 (1996 का 3) प्रथम अक्टूबर, 1996 को प्रख्यापित किया गया था और इसे प्रथम अक्टूबर, 1996 के राजपत्र, हिमाचल प्रदेश (असाधारण) में प्रकाशित किया गया था।

अब उक्त अध्यादेश को नियमित अधिनियमिति द्वारा प्रतिस्थापित किया जाना अपेक्षित है। इसके उपबन्धों को अध्यादेश के खण्ड 4 और 7 द्वारा अन्तःस्थापित मूल अधिनियम की धाराएं 3-B तथा 21-A के उपबन्धों के अनुरूप बनाने के लिए, मूल अधिनियम की धारा 10 का संशोधन करना भी आवश्यक हो गया है। इसके अतिरिक्त अनुसूची की मददों 2, 3 और 10 में भी अस्पष्टता को दूर करने के लिए किंचित संशोधन करना आवश्यक हो गया है। इसके अतिरिक्त धारा 3-B में प्रस्तावित उपबन्धों के प्रभावी कार्यान्वयन के लिए, राज्य सरकार को भूतलक्षी प्रभाव से नियम बनाने के लिए सशक्त करना भी आवश्यक हो गया है।

यह विधेयक उक्त अध्यादेश को अल्प परिवर्तनों सहित प्रतिस्थापित करने के लिए है।

शिमला :

2 दिसम्बर, 1996.

सन्त राम,
प्रभारी मन्त्री।

तृतीय जापन

विधेयक का खण्ड 4 अनुसूची में विनिर्दिष्ट मान के परिवहन पर अतिरिक्त माल कर उद्ग्रहीत करने का प्रस्ताव करता है। विधेयक के उपबन्धों को अधिनियमित किए जाने पर राजकोष में प्रति वर्ष लगभग 25 करोड़ रुपये की अनुमानित आय होगी। क्योंकि विधेयक के उपबन्ध, अधिनियमित किए जाने के पश्चात् विद्यमान सरकारी तंत्र द्वारा प्रवर्तित किए जाने हैं, इसलिए कोई अतिरिक्त व्यय अन्तर्वलित नहीं होगा।

प्रत्यायोजित विधान सम्बन्धी जापन

विधेयक का खण्ड 9, अतिरिक्त माल कर के उद्ग्रहण से सम्बन्धित खण्ड 4 द्वारा अन्तःस्थापित किए जाने को प्रस्तावित धारा 3-B के उपबन्धों को कार्यान्वित करने के प्रयोजन के लिए, हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का अधिनियम, 1955 की धारा 22 में संशोधन करके राज्य सरकार को भूतलक्षी प्रभाव से नियम बनाने को सशक्त करता है ताकि यह प्रथम अक्तूबर, 1996 को या के पश्चात् किसी भी दिन प्रभावी हो सके।

भारत के संविधान के अनुच्छेद 207 के अधीन राज्यपाल की सिफारिशें

[फाईल सं० ई० एक्स० एन ०एफ० (18) 1/96-II]

हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश में यात्रियों तथा सामान पर कर लगाने का (संशोधन) विधेयक, 1996 की विषयवस्तु के बारे में सूचित किए जाने के पश्चात्, भारत के संविधान के अनुच्छेद 207 के अधीन, विधेयक को विधान सभा में पुरःस्थापित करने और उस पर विचार करने की सिफारिश करते हैं।

उन परिस्थितियों का कथन जिनके कारण 1996 के अध्यादेश संख्यांक 3 में परिवर्तन करना आवश्यक हुआ

1996 के हिमाचल प्रदेश अध्यादेश संख्यांक 3 में अन्तर्विष्ट उपबन्धों को सुव्यवस्थित करने और स्पष्ट करने के लिए, निम्नलिखित आवश्यक समझा गया है:—

- (1) इस कारण से, कि धारा 21-A राज्य सरकार को अनुसूची में संशोधन करने के लिए सशक्त करती है इसलिए अधिनियम के अधीन छूट प्रदान करने के लिए धारा 10 का आश्रय लेने की

आवश्यकता नहीं है, अध्यादेश के खण्ड 4 और 7 द्वारा अन्तःस्थापित धारा 3-B और 21-A में अन्तर्विष्ट उपबन्धों के अनुरूप मूल अधिनियम की धारा 10 के उपबन्ध लाना ;

- (2) अनुसूची की मद्धों में प्रयुक्त पद "कन्डक्टर" को स्पष्ट करना, स्पष्टीकरण को अन्तःस्थापित किया जाना आवश्यक होना, कन्डक्टर और अन्तमुनियम वाईर रोड पर कर की दर को कम करके उन्हें राहत प्रदान करना ;
- (3) अनुसूची के मद्द 3 और 10 में आच्छादन का बचाव करने के लिए लाईम-स्टोन तथा लाईम-चिपस को क्रमशः मद्द 3(B) और उप-मद्द 10 (B), में पृथकतः विनिर्दिष्ट करना ;
- (4) अध्यादेश के खण्ड 4 द्वारा अन्तःस्थापित धारा 3-B के उपबन्धों का कार्यान्वयन के लिए राज्य सरकार को 1-10-1996 से भूतलक्षी प्रभाव से नियम बनाने के लिए सशक्त करना ।

AUTHORITATIVE ENGLISH TEXT

Bill No. 28 of 1996.

**THE HIMACHAL PRADESH PASSENGERS AND GOODS TAXATION
(AMENDMENT) BILL, 1996**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (Act No. 15 of 1955).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-seventh Year of the Republic of India, as follows : -

1. (1) This Act may be called the Himachal Pradesh Passengers and Goods Taxation (Amendment) Act, 1996.

Short title
and com-
mencement.

(2) It shall and shall be deemed to have come into force on the 1st day of October, 1996.

2. In section 2 of the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (hereinafter called the principal Act), -

Amendment
of section
2.

(a) after clause (d), the following shall be added, namely :—

“(da) “kilogram” means kilogram as defined in the Standards of Weights and Measures Act, 1976;”;

(b) the existing clause (dd) shall be renumbered as clause (db) ;
and

(c) the existing clauses (h) and (j) shall be renumbered as clauses (j) and (l) and before renumbered clause (j), the following clauses (h) and (i) shall be inserted, and before renumbered clause (l), clause (k) shall be inserted, namely :—

“(h) “prescribed authority” means any officer of the Excise and Taxation Department, not below the rank of an Excise and Taxation Inspector, appointed under sub-section (1) of section 7 of this Act;

(i) “Schedule” means the Schedule appended to this Act ;

(k) “tax” means the tax levied under sections 3 and 3-B of the Act; and”.

Amendment
of section
3.

3. For sub-section (1) of section 3 of the principal Act, the following shall be substituted, namely :—

“(1) There shall be levied, charged and paid to the State Government a tax, —

(i) on all fares in respect of all passengers carried by motor vehicles at such rates not exceeding fifty per cent of the value of fares, and

(ii) on all freights in respect of all goods transported by motor vehicles at such rates not exceeding five per cent of the value of freight,

as the Government may, by notification, direct, subject to a minimum of five paise in any one case, the amount of tax being calculated to the nearest multiple of five paise by ignoring two paise or less and counting more than two paise as five paise.

Explanation.—When passengers are carried and goods are transported by a motor vehicle, and no fare or freight whether chargeable or not, has been charged, the tax shall be levied and paid as if such passengers were carried or goods transported at the normal rate prevalent on the route.”

Insertion
of section
3-B.

4. After section 3-A of the principal Act, the following section 3-B shall be inserted, namely :

“3-B. *Levy of additional goods tax.*—(1) In addition to the tax levied under section 3, on and from the commencement of the Himachal Pradesh Passengers and Goods Taxation (Amendment) Act, 1996, there shall be levied, charged and paid to the State Government, an additional tax on the transport of the goods specified in column (2) of the Schedule at the rates given in column (3) thereof for every slab of one hundred and fifty kilometers or part thereof covered/being covered by road within the State.

(2) The tax under sub-section (1) shall be paid by a person-in-charge or the driver of the motor vehicle, as the case may be, in the prescribed manner, into the Government Treasury or the State Bank of India or to the prescribed authority of the district through which the transport of goods is affected subject to the condition that such authority shall issue him a receipt, in the prescribed form, in token of having received the amount specified therein.”

Amendment
of section
4.

5. In section 4 of the principal Act, for the existing provisos, the following provisos shall be substituted, namely :—

“Provided that in the case of goods carriages or motor cabs, maxi cabs and scooter rickshaws, wherever an owner opts to pay the tax or tax and surcharge in lump-sum, the Government may accept a lump-sum in lieu of the tax or tax and surcharge, as the case may be, payable under sections 3 and 3-A, on freight or fare in the manner prescribed:

Provided further that in case of motor vehicles (including the stage carriages or contract carriages), other than those specified in the first proviso, in which the passengers are carried, wherever an owner opts to pay the tax and surcharge in lump-sum, the State Government may accept a lump-sum, in lieu of the tax and surcharge payable under sections 3 and 3-A, in the manner prescribed, taking into consideration the registered capacity of the vehicle and the distance to be covered by such motor vehicles under the permit issued to such vehicles.”.

6. In section 10 of the principal Act, after the words “any of the provisions”, the words, figure and alphabet “,other than the provisions of section 3-B,” shall be added. Amendment of section 10.

7. For section 14-B of the principal Act, the following sections 14-B, 14-C and 14-D shall be substituted, namely :— Substitution of section 14-B.

“14-B. *Establishment of check posts or barriers and inspection of goods in transit.*—(1) With a view to preventing or checking evasion of tax under this Act, the State Government may, by notification, direct the establishment of a check post or the erection of a barrier or both on such road or roads as may be notified.

(2) At every check post or barrier or at any other place when so required by an officer-in-charge of the check post or barrier or any other officer, not below the rank of an Excise and Taxation Inspector, the person-in-charge or the driver of the motor vehicle, as the case may be, shall stop or cause to be stopped the motor vehicle, and keep it stationary as long as may reasonably be necessary, and allow the aforesaid officer to examine the contents in the motor vehicle by breaking open the package or packages, if necessary, and inspect all records relating to the goods transported which are in the possession of such person-in-charge or driver, who shall also furnish such other information as may be required by the aforesaid officer, and if considered necessary, such officer may also search the goods and the motor vehicle.

(3) The person-in-charge or the driver of the motor vehicle, as the case may be, shall keep with him the receipt in the prescribed form showing the tax and/or additional goods tax paid by him under sections 3 and 3-B in respect of the goods being transported by him and produce on demand such receipt before an officer-in-charge of a check post or barrier or any other officer, not below the rank of an Excise and Taxation Inspector, checking such motor vehicle at any other place.

(4) If the person-in-charge or the driver of motor vehicle, as the case may be, fails to produce the receipt as required under sub-section (3), the officer-in-charge of the check post or barrier or any other officer referred to in sub-section (3), as the case may be, shall recover the tax and/or the additional goods-tax, as the case may be, at the check post or barrier or at the place of inspection and issue him the receipt in the prescribed form.

(5) If the transport of the goods on which the tax and/or additional goods tax is payable under this Act, is being affected through the check post or the barrier falling first in the course of transit within the State, the person-in-charge or the driver of motor vehicle may pay the tax at such check post or the barrier and obtain a receipt, in the prescribed form, against such payment.

14-C. Penalties.—(1) Whosoever,

- (a) contravenes or abets the contravention of any of the provisions of this Act or the rules made thereunder or any order or direction made under any such provision or rule; or
- (b) conceals the particulars of the transport of the goods or deliberately furnishes inaccurate particulars,

shall, on conviction, be liable to imprisonment of either description which may extend to six months or a fine which may extend to one thousand rupees or both.

(2) No Magistrate shall take cognizance of any offence under this Act or the rules made thereunder except on a complaint in writing made by an officer or authority authorised by the Commissioner, in this behalf.

14-D. Composition of offences.—(1) The State Government may, by notification in the Official Gazette, authorise any officer, not below the rank of an Excise and Taxation Officer to compound the offences committed under this Act and rules made thereunder.

(2) The officer authorised under sub-section (1), may compound the offence committed under this Act by charging either a sum of rupees one thousand or double the amount of tax, surcharge, or additional goods tax, whichever is higher.

(3) On payment of the sum referred to in sub-section (2), no further criminal proceedings shall be taken or continued to be taken against the person concerned in respect of such offence."

Insertion of
section
21-A.

8. After section 21 of the principal Act, the following section 21-A shall be inserted, namely :—

"21-A. Power to amend Schedule.—(1) The State Government may, subject to previous publication, by notification add to or delete therefrom any goods specified in column (2) of the Schedule or amend the rate of additional goods tax specified in column (3) thereof and thereupon the said Schedule shall stand amended accordingly :

Provided that the rate of the additional goods tax shall not be increased at any one time by more than 50% of the rate specified in the Schedule.

(2) Every notification issued under sub-section (1) shall, as soon as may be, after it is issued, be laid on the Table of the Legislative Assembly."

9. In section 22 of the principal Act, in sub-section (2),—

Amendment
of section
22.

(a) before the first proviso, the following proviso shall be inserted, namely :—

“Provided that the State Government may, for the purposes of section 3-B of this Act, make rules with retrospective effect so as to be effective from any day on or after 1st day of October, 1996 :”; and

(b) in the existing proviso for the word “Provided” the words “Provided further” shall be substituted.

10. At the end of the principal Act, the following Schedule shall be added, namely :—

Addition of
Schedule.

“SCHEDULE

[See sub-section (1) of section 3-B and section 21-A]

Sl. No.	Particulars of the goods on the transport of which additional goods tax is leviable	Rate of additional tax for transport of goods for every slab of 150 kilometers or part thereof
1	2	3
1.	All type of yarn (excluding woollen yarn).	Re. 1.00 per 10 kg. or part thereof.
2.	All type of conductors and aluminium wire rods.	Re. 1.00 per 10 kg. or part thereof.
3.(a)	Bajri, sand and other minerals (excluding Lime stone, Granite and Marble, Marble Chips and pieces), and	Rs. 7.00 per ton.
(b)	Lime-stone	(i) From 1-10-96 to 31-12-1996: Rs. 7.00 per ton. (ii) From 1-1-1997 : Rs. 25.00 per ton.
4.	Bricks	Rs. 30.00 per thousand
5.	Brick bats	Rs. 15.00 per ton
6.	Carpets of all types	Rs. 10.00 per 10 kg. or part thereof.
7.	Cement and Clinker	Rs. 60.00 per ton
8.	Forest produce :	
(a)	Timber (Sawn, Hawkries, Dim-dimas, Logs, Ballies and Rough Axed of all sizes).	Rs. 45.00 cum.
(b)	Khair wood (including roots or in any other form).	Rs. 60.00 per quintal

1	2	3
	(c) Fuel wood and Chil pulp wood	Rs. 10.00 per quintal
	(d) Other Forest Produce :	
	(i) Bhabar grass	Rs. 5.00 per quintal
	(ii) Bamboo, Barberies, Emblica officianale (Amila fruit) and resin.	Rs. 2.00 per 10 kg. or part thereof.
	(iii) Dioscorea, Saussurea lappa (Kuth), Reetha, Terminalia Chebula (Hara fruit) and Terminalia belerica (Behera fruit).	Rs. 4.00 per 10 kg. or part thereof.
	(iv) Centiana Karru (Kaur), Jurinea Macro-prehila (Dhoop) and Picrothiza Karrosa (Kaur, Karu).	Rs. 5.00 per 10 kg. or part thereof.
	(v) Juglansregia (Akhrot bark and fruit), Violserpens Violaodorata (Banafsha), Chilgoza and Seeds of all forest species like Deodar, Kail, Chil and broad leaved species.	Rs. 10.00 per 10 kg. or part thereof.
	(vi) Carum Carvi (Kala-zeera) and Katha.	Rs. 30.00 per 10 kg. or part thereof.
	(vii) Rauwolfia serpentina (Rauwolfia).	Rs. 75.00 per 10 kg. or part thereof.
	(viii) Merchella esculenta (Guchhie)	Rs. 30.00 per 10 kg. or part thereof.
9.	Fruits (excluding dry fruits not otherwise specified).	50 paise per 10 kg. or part thereof.
10.	(a) Granite and Marble including Marble Chips and pieces.	75 paise per 10 kg. or part thereof.
	(b) Lime-stone chips	7 paise per 10 kg. or part thereof.
11.	Prepared explosives, safety fuses, detonating fuses, detonating caps, detonators and propellant powder.	Rs. 5.00 per 10 kg. or part thereof.
12.	Vegetables including potatoes	25 paise per 10 kg. or part thereof.

Explanation.—For the purposes of this Schedule.—(a) ‘Timber’ means all wood whether cut up or fashioned or hollowed out for any purpose or not but excluding fuel wood, and
(b) “Conductor” means any wire used in transmission of electric energy or any other form of power.”.

11. (1) The Himachal Pradesh Passengers and Goods Taxation (Amendment) Ordinance, 1996 (3 of 1996), is hereby repealed.

Repeal of
Ordinance
No. 3 of
1996 and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the repealed Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act, as if the provisions of this Act were in force at the time when such thing was done or such action was taken.

STATEMENT OF OBJECTS AND REASONS

The State Government levied tax on the carriage of goods under section 3 of the Himachal Pradesh Passengers and Goods Taxation Act, 1955, at the rate of 40 per cent of the freight. On enforcement, the incidence of the goods tax on essential goods had been found difficult to be accommodated by the margin of price-escalation permitted due to the price-tag on various such commodities as a result of which supplies of the same to the consuming State of Himachal Pradesh became vulnerable and were adversely affected; it evidently surfaced that Himachal Pradesh, which is predominantly a consuming State, was not in a position to continue with this high incidence of goods tax on all goods. This situation called for immediate rationalisation of rates of goods tax with reference to the capacity of the commodities to bear the same.

Besides, in view of the judgement of the Hon'ble High Court in *M/s Nurpur Private Bus Operators Union and Others vs. State of Himachal Pradesh and Others* [1993 (1) SLC 294], it had been considered essential to provide option to the tax-payers to pay the passengers and goods tax either on actual basis or on lump sum basis, instead of compulsory payment of the tax on lump sum basis.

Roads and bridges constitute the life-line in the hilly-terrain of Himachal Pradesh and every year the State Government has to devote a sizeable chunk of its revenue on their construction, development, repair, up-keep and maintenance, without which any development, industrialisation or trade which require these trading facilities as basic infrastructure, would be unthinkable. To generate necessary revenue for funding these activities taxation of carriage of passengers and goods by road remains un-avoidable, the absence whereof would mean absolute halt to the construction, maintenance, development etc. of roads and bridges in the State and the pace of development, industrialisation and trade would relapse into backwardness. The budgeted expenditure on the activities of construction, development, repair, up-keep and maintenance of roads and bridges in the State is Rs. 1,88,70,93,000 for the year 1996-97. Further expenditure on the regulatory activities of traffic control etc. is being incurred to the tune of Rs. 1,30,00,000 for the year 1996-97. In the interest of continued availability of these trading facilities it is essential to finance these expenditures.

The above facts necessitated immediate action to tackle the situation by reducing rate of the basic goods tax from 40 per cent to 5 per cent. Simultaneously to recoupe the revenue involved in the reduction of the rate of goods tax by 35 per cent, it became necessary to levy additional goods tax on the transport of selected goods having capacity to bear greater burden of tax, so that the tax-structure is rationalised.

Since the Himachal Pradesh Legislative Assembly was not in session and the Himachal Pradesh Passengers and Goods Taxation Act, 1955, had to be amended urgently, the Governor, Himachal Pradesh, promulgated, under clause (1) of article 213 of the Constitution of India, the Himachal Pradesh Passengers and Goods Taxation (Amendment) Ordinance, 1996, (Ordinance No. 3 of 1996) on the 1st October, 1996 and the same was published in the Rajpatra, Himachal Pradesh (Extra-ordinary) dated the 1st October, 1996.

Now the said Ordinance is required to be replaced by a regular enactment. It has also become necessary to amend section 10 of the principal Act, to bring its provisions in conformity with the provisions of sections 3-B and 21-A of the principal Act inserted by clauses 4 and 7 of the Ordinance. Apart from this, to remove ambiguity items 2, 3 and 10 of the Schedule are also

required to be slightly amended. Further, for effective implementation of the proposed provisions in section 3-B, it is also necessary to empower the State Government to frame rules retrospectively.

This Bill seeks to replace the said Ordinance with minor modifications.

SANT RAM,
Minister-in-charge.

SHIMLA :
The 2nd December, 1996.

FINANCIAL MEMORANDUM

Clause 4 of the Bill proposes to levy additional goods tax on the transport of goods specified in the Schedule. The provisions of the Bill, when enacted, are estimated to yield about Rs. 25 crores per annum to the State ex-chequer. As the provisions of the Bill, after being enacted, are to be enforced through the existing Government machinery, no additional expenditure will be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill seeks to amend section 22 of the Himachal Pradesh Passengers and Goods Taxation Act, 1955, to empower the State Government to make rules with retrospective effect so as to be effective on any day on or after 1st day of October, 1996, for carrying into effect the provisions of section 3-B, relating to the levy of the additional goods tax proposed to be inserted by clause 4 of the Bill. This delegation is essential in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[File No. EXN-F (18) 1/96—II]

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Passengers and Goods Taxation (Amendment) Bill, 1996, recommends, under article 207 of the Constitution of India, the introduction and consideration of the Bill by the Legislative Assembly.

STATEMENT EXPLAINING CIRCUMSTANCES WHICH NECESSITATED MODIFICATIONS IN ORDINANCE NO. 3 OF 1996

In order to rationalise and to make clear the provisions contained in the Himachal Pradesh Ordinance No. 3 of 1996, it has been considered necessary :—

- (1) to bring the provisions of section 10 of the principal Act in conformity with the provisions in sections 3-B and 21-A inserted by clauses 4 and 7 of the Ordinance, for the reason that as section 21-A empowers the State Government to amend the Schedule there will be hardly any necessity to resort to section 10 for according exemptions under the Act;
- (2) to clarify the expression "conductors" used in item 2 of the Schedule, insertion of an Explanation became necessary and also to provide relief, rate of tax on all types of conductors and aluminium wire rods had to be reduced;
- (3) to avoid over-lapping in items 3 and 10 of the Schedule, the lime stone has to be specified in item 3 (b) and lime-stone chips had to be included separately as item 10(b);
- (4) to empower the State Government to make rules retrospectively with effect from 1-10-1996, for the implementation of the provisions of section 3-B inserted by clause 4 of the Ordinance.